

REMARKS

This responds to the Office Action mailed on August 11, 2006.

Claims 1-8, 10 and 30 have been amended. Claims 1-30 are pending in this application.

§102 Rejection of the Claims

Claims 1, 2, 7-10, 12, 15 and 27-30 were rejected under 35 U.S.C. § 102(e) as being anticipated by Tran et al. (US 2005/0018946). An affidavit swearing behind the reference is attached and is believed to remove the publication as a reference. The affidavit illustrates that the invention may have been partially reduced to practice prior to the filing date of Tran et al. Exhibit B illustrates that the structure of claim 1 was formed except for a simple etch that would have released the structures.

Claims 1-4 and 30 were rejected under 35 U.S.C. § 102(b) as being anticipated by Rines (US 4414471). Claims 1 and 30 have been amended to recite a micro-mechanical waveguide, thus structurally distinguishing from the optical fiber of Rines. Such micro-mechanical waveguides have much higher resonant frequencies and different geometries when compared to optical fibers. The claims are now believed in condition for allowance.

§103 Rejection of the Claims

Claims 5, 6, 11, 13, 14 and 16-26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Tran et al. (cited above). This rejection is respectfully traversed.

The Office Action takes Official Notice nano-tapers and the use of a stress layer in a cantilever, and the use of silicon nitride for such a stress layer are well known in the art. Further, Official Notice is taken that a piezoelectric actuator or electrostatic actuator is well known, and that ring resonators and the use of them to multiplex light is also well known. Still further, Official Notice is taken that reflectors are well known. The Office Action then indicates that it would have been obvious to combine these well known structures to obtain the invention claimed. This same argument could be used against any unique combination of known elements, and is conclusory in nature. The multiple instances of Official Notice are respectfully traversed,

and Examiner is requested to provide a reference or references to show such elements. Absent a reference, it appears that the Examiner is using personal knowledge, so the Examiner is respectfully requested to submit an affidavit as required by 37 C.F.R. § 1.104(d)(2).

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612) 373-6972 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

ROBERTO R. PANEPUCCI ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6972

Date 11/13/2006

By Bradley A. Forrest
Bradley A. Forrest
Reg. No. 30,837

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop RCE, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 13th day of November 2006.

Dawn M. Poole

Name

Dawn M. Poole

Signature